

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMAR BAILEY,

Plaintiff,

v.

CAROL HOLINKA,

Defendant.

ORDER

09-cv-360-bbc

In an order dated July 13, 2009, I directed plaintiff Jamar Bailey to inform the court whether he wished his pleading be treated as a petition for a writ of habeas corpus or as a civil action under 42 U.S.C. § 1983. I advised plaintiff that if he wanted to proceed under § 1983 he would be required to submit an initial partial payment towards the \$350 filing fee and that I would apply the \$5 fee he submitted with his original pleading toward that amount.

Now plaintiff has filed a response to the July 13 order stating that he wants to proceed with this case as a civil action under 42 U.S.C. § 1983. In addition plaintiff has submitted an application to proceed in forma pauperis and a copy of his six-month trust fund account statement. From the trust fund account statement plaintiff has submitted, I

calculate his initial partial payment to be \$46.78. Subtracting the \$5 payment already received, plaintiff owes an additional \$41.78 towards the \$350 filing fee. Plaintiff should show a copy of this order to prison officials to insure that they are aware that they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff is assessed \$41.78 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$41.78 on or before August 20, 2009. If, by August 20, 2009, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a later date.

Entered this 31st day of July, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge